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**Registers of the Records of the
Proceedings of the U.S. Army
General Courts-Martial
1809-1890**



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*Records of the Office of the
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Record Group 153

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Record Group 338

RECORDS OF UNITED STATES ARMY WAR CRIMES TRIALS
UNITED STATES OF AMERICA v. OTTO SKORZENY ET AL.
JULY 13, 1945-DECEMBER 13, 1948

On the 24 fiche of this publication are reproduced the records of case 6-100, the Skorzeny war crimes case (*United States of America v. Otto Skorzeny et al.*), which was tried by a general military government (U.S. Army) court at Dachau from August 18, 1947 through September 9, 1947. In this trial 10 members of various branches of the German Armed Forces were prosecuted under a general charge of having violated the laws and usages of war by wearing enemy uniforms during combat conditions, torturing and killing unarmed U.S. prisoners of war, and misappropriating articles belonging to them.

The records of the Skorzeny case consist of: documents authorizing U.S. war crimes trials and other finding aids; the official transcripts of the court proceedings (which were stenographically recorded, if necessary translated into English, and transcribed); prosecution and defense exhibits, which are documents presented to the court as evidence by both prosecution and defense counsel in English and German in most cases; miscellaneous correspondence pertaining to various aspects of the trial, and supporting documents containing largely papers relating to the chief defendant, Otto Skorzeny. There are no pretrial investigatory record series or posttrial documents. The inclusive dates of the records span the period from July 13, 1945 to December 13, 1948. Several documents of authorization predate this period.

Most of the records of European and Japanese war crimes cases tried by the U.S. Army are part of one or more of the following four record groups (RG): Records of the Office of the Judge Advocate General (Army), RG 153, which includes case records and other files pertaining to war crimes trials maintained by that office in Washington, D.C.; Records of the United States Army Commands, 1942- , RG 338, which contains the records generated by Army war crimes agencies subordinate to the Office of the Judge Advocate General in Europe; and Records of the Allied Operational and Occupational Headquarters, World War II, RG 331, which contains the war crimes records created by the Supreme Commander Allied Powers and subordinated units in the Far East. In addition to these record groups, National Archives Collection of World War II War Crimes Records, RG 238, consists of war crimes records produced by war crimes agencies other than those of the U.S. Army. The records of the Skorzeny case are part of RG 153 with the exception of the miscellaneous correspondence file, which is part of RG 338. This correspondence was

included in order to provide more complete information on the trial. The records are identified by record group number in the table of contents and on each fiche.

Background

Jurisdictions and Cases

In Europe, the United States participated in war crimes trials under three jurisdictions: that of the International Military Tribunal (IMT), that of the U.S. military tribunals at Nuernberg, and that of U.S. Army courts. General authority for the proceedings of all three jurisdictions derived from the Declaration of German Atrocities (Moscow Declaration), released November 1, 1943, which expressed Allied determination to arrest and bring to justice Axis war criminals.

International Military Tribunal

The IMT tried 24 major war criminals and a number of organizations in 1945 and 1946. Specific authority for U.S. participation in the IMT is found in Executive Order 9547 of May 2, 1945, which authorized Supreme Court Justice Robert H. Jackson to represent the United States in war crimes matters and to act as Chief of Counsel; the London Agreement of August 8, 1945 (as amended by the Berlin Protocol of October 6, 1945), in which the United States, France, the United Kingdom, and the Soviet Union agreed to hold the IMT; and the IMT Charter (an annex to the London Agreement), which outlined the rights and obligations of defendants, judges, and prosecutors.

U.S. Military Tribunals at Nuernberg

From 1946 to 1949, U.S. military tribunals at Nuernberg tried 185 individuals in 12 separate proceedings grouped according to type of crime or organization as follows:

Case No.	<u>United States v.</u>	<u>Popular Name</u>	<u>No. of Defendants</u>
I	<i>Karl Brandt et al.</i>	Medical Case	23
II	<i>Erhard Milch</i>	Milch Case (Luftwaffe)	1
III	<i>Joseph Altstoetter et al.</i>	Justice Case	16
IV	<i>Oswald Pohl et al.</i>	Pohl Case (SS)	18
V	<i>Friedrich Flick et al.</i>	Flick Case (Industrialist)	6

Case No.	<u>United States v.</u>	<u>Popular Name</u>	<u>No. of Defendants</u>
VI	<i>Carl Krauch et al.</i>	I. G. Farben Case (Industrialist)	24
VII	<i>Wilhelm List et al.</i>	Hostage Case	12
VIII	<i>Ulrich Greifelt et al.</i>	RuSHA Case (SS)	14
IX	<i>Otto Ohlendorf et al.</i>	Einsatzgruppen Case (SS)	24
X	<i>Alfried Krupp et al.</i>	Krupp Case (Industrialist)	12
XI	<i>Ernst von Weizsaecker et al.</i>	Ministries Case	21
XII	<i>Wilhelm von Leeb et al.</i>	High Command Case	14

Specific authority for the U.S. tribunals, which tried these 12 cases, is found in Allied Control Council Law 10 of December 20, 1945, which outlined trial procedures patterned after those of the IMT; Executive Order 9679 of January 16, 1946, which authorized the establishment of U.S. military tribunals; Office of Military Government for Germany (U.S.) (OMGUS) Ordinances 7 and 11 of October 18, 1946, and February 17, 1947, respectively, which spelled out details of trial procedures outlined by Allied Control Council Law 10; and United States Forces, European Theater (USFET), General Order 301 of October 24, 1946, which appointed Brig. Gen. Telford Taylor as Chief of Counsel for War Crimes for the 12 U.S. military tribunals at Nuernberg.

U.S. Army Courts

From 1945 to 1948, U.S. Army courts (military commissions and special or general military government courts) tried 1,672 individuals in 489 proceedings. Specific authority for these proceedings is found in Joint Chiefs of Staff Directive 1023/10 of July 8, 1945, which placed responsibility for certain war crimes trials in Germany on the Commander, USFET. The Commander, in turn, empowered the commanding general of the Western Military District (territory occupied by the U.S. 3d Army (Bavaria)) to appoint military courts, predominantly at the site of the former concentration camp Dachau, for the trial of war criminals not heard at Nuernberg. This was done in a letter on the subject of "Trial of War Crimes and Related Cases" of July 16, 1945. The commanding general of the Eastern Military District (territory occupied by the U.S. 7th Army (Hesse, Baden-Wuerttemberg, and Bremen)) was similarly authorized to commence war crimes trials, mainly at Ludwigsburg. In order to streamline operations, the

Commander, USFET, revoked this division of authority in a letter of October 14, 1946, and assigned responsibility to prosecute war criminals to the Deputy Judge Advocate for War Crimes, USFET. Henceforth, all cases were tried at the site of the former concentration camp Dachau because centralization of war crimes activities appeared necessary in view of the large body of cases and investigations.

The 489 cases tried by the U.S. Army in Germany can be divided roughly into four categories: main concentration camp cases, subsequent concentration camp cases, flier cases, and miscellaneous cases. The first category comprises 6 cases with about 200 defendants, mainly staff members and guards at Dachau, Buchenwald, Flossenbürg, Mauthausen, Nordhausen, and Muhlendorf concentration camps. The second category includes about 250 proceedings against approximately 800 guards and staff members of the outcamps and branch camps of the major camps. The third category encompasses more than 200 cases in which about 600 persons, largely German civilians, were prosecuted for the killing of some 1,200 U.S. nationals, mostly airmen. The fourth category consists of a few cases including the Malmedy Massacre Trial, in which more than 70 SS men were tried for murdering large groups of surrendered U.S. prisoners of war; the Hadamar murder factory case (see National Archives and Records Service Microfilm Publication M1078), in which a number of Hadamar Asylum staff members stood trial for the killing of about 400 Russian and Polish nationals; and the Skorzeny case.

The Skorzeny case was referred for trial by the Deputy Judge Advocate for War Crimes to the general military government court that had been appointed under the authority of Special Order 144, dated August 5, 1947, Headquarters, European Command (EUCOM; formerly USFET), and amended by Special Order 153 of August 14 and Special Order 154 of August 15.

The Skorzeny Case

Otto Skorzeny was the most successful commando leader of the Third Reich. Tall and handsome in spite of his heavily scarred face, he became Hitler's most trusted special mission expert after he had spectacularly liberated Benito Mussolini from his prison in Italy's Gran Sasso in 1943. In October 1944, Hitler personally directed him to organize a special unit, composed of English-speaking German soldiers, which eventually became known as the 150th SS Panzer Brigade. Supplied with U.S. uniforms, rations, and weapons allegedly taken in part from Red Cross stores and from U.S. prisoners of war, the brigade was to follow the German Panzer Units at the start of the Ardennes offensive, also known as the Battle of the Bulge. The initial goal of these Panzer units was to pierce the American lines and then to secure the Maas River bridges at Angier, Ameer, and Huy. Because the breakthrough was never fully successful,

the 150th SS Panzer Brigade dropped its primary mission, and its members dispersed themselves to the nearest field commanders and participated in combat near Malmedy. Although members of the brigade were seen in operational areas wearing U.S. uniforms with German parachute tunics, there was little evidence that they actually participated in combat wearing these uniforms. During the last days of December 1944, Skorzeny's brigade was relieved by other troops and subsequently disbanded.

A general military government court tried the following German officers and enlisted men:

Col. Otto Skorzeny	(SS)
Capt. Philipp von Behr	(Navy)(Born in Latvia)
Walter Scherf	(Army)
Hans Hass	(Army)
Wilhelm Maus	(Army)
Lt. Dennis Muentz	(Navy)
Guenthier Fitze	(Navy)
Ralph Bellstedt	(Navy)
Wilhelm Kocherscheidt	(Army)
Arend de Bruin	(Germanische SS Div.) (Dutch National)

Eight officers were appointed to the court: Col. Andrew G. Gardner, president; Col. James D. Brown; Col. Earle B. Dunning; Col. John H. Keatinge; Col. Clarence M. Tomlinson; Lt. Col. Harold L. Milan; Lt. Col. Jules V. Sims; and Lt. Col. Ottomar W. Eichmann. The legal member was Maj. Devalson S. Purl.

The crimes alleged by the prosecution in the four-charge indictment were all violations of the laws and usages of war. Charge I asserted that Skorzeny and his men participated in combat wearing U.S. uniforms. Although most interpreters of international law agree that wearing of enemy uniforms is permissible in carrying out a ruse, it is unlawful to be uniformed in the garb of the enemy during actual combat. Therefore, it was crucial for the prosecution to prove that the defendants participated in combat wearing U.S. uniforms. Charge II alleged that the defendants tortured and killed more than 100 U.S. prisoners of war. Charge III stated that Skorzeny and his co-defendants removed, used, and appropriated insignia of rank, decorations, uniforms, identification documents, and other effects and objects of personal use in the possession of U.S. prisoners of war. Charge IV alleged misappropriation of Red Cross food and clothing parcels consigned to U.S. prisoners of war.

All of the defendants pleaded not guilty. The defense challenged Gardner and Eichmann as prejudiced against their case because they felt that these individuals had been specially selected to achieve convictions and to hand out stiff sentences.

This challenge was overruled. The court dismissed Charge II for lack of evidence. The court granted a motion by the prosecution to find de Bruin not guilty and granted a similar motion by the defense for Maus. All other defendants were eventually acquitted. The court did not render an opinion explaining its reasons for the acquittals, contrary to procedure set by Nuernberg courts.

Records Description

The records of the Skorzeny case are filmed in the following order: finding aids, trial records, miscellaneous correspondence, and supporting documents. Duplicate copies of records were removed before filming. File folder covers are filmed preceding the records in the folders in all instances where they provide identifying information.

The finding aids begin with the principal documents authorizing war crimes trials in Germany. Included are those pertaining to trials by U.S. Army courts, namely, Joint Chiefs of Staff Directive 1023/10 and letters from the Commander, USFET, dated August 25, 1945, and October 14, 1946. Immediately following these documents of authorization are finding aids to be used with the trial records. These consist of transcript covers, daily summaries of court transcripts, a list of prosecution and defense exhibits, and a list of the names of members of the court and the prosecution and defense counsel and staffs.

The transcripts of this trial are in English and are assembled in 12 volumes, one for each court day except for volume 12, which includes September 8 and 9. Pagination is continuous 1 through 799; a number of pages are also given letter, as well as number, designations; at the top of each page are the date and the initials of the court reporters for that day. The transcripts are the recorded daily proceedings and include the arraignments, the separate pleas by the defendants to each of the four charges, the opening and closing statements of prosecution and defense, the defense challenge to Gardner and Eichmann, and the testimony of witnesses. The prosecution, headed by Col. A. H. Rosenfeld, presented 21 witnesses, and the defense, headed by Lt. Col. Robert D. Durst, presented 9.

The prosecution exhibits are the 71 documents that were chosen for presentation before the court from among the documents assembled for prosecution use. They are numbered consecutively 1 through 46, the extra documents being incorporated under 25 numbers with appended number and letter designations (Exhibit 12A under Exhibit 12, for example). The appended exhibits normally are translations of the numbered exhibits. Each numbered exhibit is preceded by a form noting case numbers, exhibit numbers, and the date of introduction before the court. These unbound records include personnel records of

defendants and victims, statements and affidavits by witnesses and defendants, maps and commission orders, a message, a directive, a memorandum, a death certificate, and a record of trial. A number are of poor legibility and five are missing, namely:

<u>Exhibit No.</u>	<u>Description</u>
18A	Blowup of Malmedy map
19A	Blowup of Bonn map
35A	Blowup of Stavelot map
43	Photograph
44	Photograph

The defense exhibits consist of 36 items--23 numbered exhibits and 13 lettered and numbered translations of exhibits (exhibit nos. 2 through 6, 11 through 21A, 24 through 25A, and 30 through 34). The defense exhibits include sketches, charts, overlays, statements and affidavits of defendants and witnesses, personnel records, excerpts from publications, a diary, a report, and a death certificate. The defense exhibits are arranged numerically and are preceded by forms similar to those preceding the prosecution exhibits. The following defense exhibits are missing:

<u>Exhibit No.</u>	<u>Description</u>
1	Statement by SS General Gottlob Berger at Nuernberg
7	Map of Cologne
8	Map of Trier
9	Map of Namur
10	Map of Brussels
17	Excerpt from daily report of German Army
22	Statement by Maj. Joseph R. Prusaitos
23	Statement by 1st Lt. James O'Neill
26	Statement by Hans Schneider
26A	English Translation of exhibit 26
27	Statement by Georg Heider
28	Statement by Reiner Hoffman-Credner
28A	English Translation of exhibit 28
29	Statement by Hermann Wulf
29A	English Translation of exhibit 29

Exhibit 11, a bullet, was not filmed because it would not reproduce well.

The miscellaneous correspondence file and supporting documents are arranged chronologically. Some oversized maps are filmed in sections.

Related Records

Microfilm publications of related records in RG 153 and RG 338 include:

- United States of America v. Alfons Klein et al. (Case Files 12-449 and 000-12-31), October 8, 1945-October 15, 1945, M1078;*
- United States of America v. Kurt Andrae et al. (and Related Cases), April 27, 1945-June 11, 1958, M1079;*
- German Documents Among the War Crimes Records of the Judge Advocate Division, Headquarters, United States Army, Europe, T1021.*

The Skorzeny case records are also closely related to micro-filmed records in National Archives Collection of World War II War Crimes Records, RG 238, specifically:

- Prosecution Exhibits Submitted to the International Military Tribunal, T988;*
- Records of the Office of the United States Chief of Counsel for War Crimes, Nuernberg Military Tribunals, Relating to Nazi Industrialists, T301;*
- Records of the United States Nuernberg War Crimes Trials:*
 - NOKW Series, 1933-1947, T1119;*
 - NG Series, 1933-1948, T1139;*
 - NM Series, 1874-1946, M936;*
 - NP Series, 1934-1946, M942;*
 - WA Series, 1940-1945, M946;*
 - Guertner Diaries, October 5, 1934-December 24, 1938, M978;*
- Records of the United States Nuernberg War Crimes Trials, United States of America v.:*
 - Karl Brandt et al. (Case I), November 21, 1946-August 20, 1947, M887;*
 - Erhard Milch (Case II), November 13, 1946-April 17, 1947, M888;*
 - Josef Altstoetter et al. (Case III), February 17, 1947-December 4, 1947, M889;*
 - Oswald Pohl et al. (Case IV), January 13, 1947-August 11, 1948, M890;*
 - Friedrich Flick et al. (Case V), March 3, 1947-December 22, 1947, M891;*
 - Carl Krauch et al. (Case VI), August 14, 1947-July 30, 1948, M892*
 - Wilhelm List et al. (Case VII), July 8, 1947-February 19, 1948, M893;*
 - Ulrich Greifelt et al. (Case VIII), October 10, 1947-March 10, 1948, M894;*
 - Otto Ohlendorf et al. (Case IX), September 15, 1947-April 10, 1948, M895;*

Alfried Krupp et al. (Case X), August 16, 1947-July 31, 1948, M896;
Ernst von Weizsaecker et al. (Case XI), November 4, 1947-April 13, 1949, M897;
Wilhelm von Leeb et al. (Case XII), November 28, 1947-October 28, 1948, M898;
Records of the United States Nuernberg War Crimes Trials Interrogations, 1946-1949, M1019.

In addition, the record of the IMT at Nuernberg has been published in *Trial of the Major War Criminals Before the International Military Tribunal (Nuernberg, 1947)*, 42 vols. Excerpts from the subsequent proceedings have been published as *Trials of War Criminals Before the Nuernberg Military Tribunal Under Control Council Law No. 10* (U.S. Government Printing Office, 1950-53), 15 vols. Detailed finding aids with computer-assisted indexes for the microfilmed records of the Ohlendorf Case (Special List 42) and the Milch Case (Special List 38) have also been published. The National Archives and Records Service holds motion pictures and photographs of many sessions of the IMT and of the 12 U.S. Nuernberg proceedings as well as sound recordings of the IMT proceedings only.

Because the exploits of Otto Skorzeny have found an echo in public imagination, a number of books have been written by and about him. Some of those available in English are:

Charles Foley, *Commando Extraordinary* (New York: G. P. Putnam's Sons, 1954)
Otto Skorzeny, *Skorzeny's Secret Missions* (New York: E. P. Dutton & Co., 1950)
Otto Skorzeny, *Skorzeny's Special Missions* (London: Robert Hall, Ltd., 1957)

John Mendelsohn arranged the records of the Skorzeny Case for microfilming and wrote these introductory remarks.

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